REMARKS

Claims 1-41 are currently pending in the subject application and are presently under consideration. Claims 1, 21 and 36 have been amended as shown on pp. 2, 5 and 7 of the Reply. Applicants' representative thanks the Examiner for the courtesies extended during the telephone conversation of June 6, 2007, wherein the Examiner indicated that the amendments made herein place the subject application in better condition for allowance.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I.   **Double Patenting**

Claims 1-41 stand provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1-41 of Original Application No. 10/721726. This rejection should be withdrawn for at least the following reasons. Independent claims 1, 21 and 36 have been amended such that they are no longer coextensive in the scope.

Applicants' subject claims relate to a system and method for unifying and/or utilizing state information for managing networked systems. In particular, independent claim 1, as amended, recites ***a system that facilitates networked system <u>management</u> that comprises a user interface that <u>receives at least one user control parameter</u> that facilitates improved utilization of the networked system.*** Furthermore, independent claims 21 and 36, as amended, recite similar aspects, namely, ***enabling a user to <u>manipulate assets</u> of the networked system to facilitate improved utilization of the networked system.***

Applicants' subject claims disclose systems and methods for providing monitoring *and control* of utilization related aspects of networked systems such that aggregated data is utilized to provide manual *and/or* automatic control in relation to one or more aspects of at least one system regarding system utilization by an entity *and/or* a person. The system provides a user interface that relays and/or accepts information from a user and/or entity. The user interface interfaces with a data gathering service component *and/or* a database engine component. The data gathering service component is comprised of system and user control parameters, aggregation rules parameters,

9

output/reports rule set parameters, e-mail/pager/etc. contact rules parameters, and additional parameters. The system and user control parameters provide manual *and/or* automatic control of various system parameters based upon information aggregated by the data gathering service component. This enables a user *and/or* entity to manipulate assets of a client's system in order to achieve optimal utilization of that system for its intended purpose. These parameters can be set *via* the user interface *and/or* utilize default values set by the data gathering service component *and/or* by an additional entity such as an AI controlling unit.

The Original Application No. 10/721726 relates to systems and methods for determining system state information for facilitating management of networked systems. The claims of Original Application No. 10/721726 disclose a system that facilitates determining a state of a networked system but do not recite a system that facilitates monitoring and control of utilization related aspects of networked systems. Furthermore, the claims of Original Application No. 10/721726 do not disclose a user interface that enables a user to manipulate assets of the networked system to facilitate improved utilization of the networked system as disclosed by the applicants' subject claims.

For a claim to be rejected for statutory double-patenting under 35 U.S.C. §101, the claims must be of identical scope. (*See e.g.* MPEP 804(II)(A)) Independent claims 1, 21, and 36 have been rewritten in a streamlined form including novel limitations and are broader in scope than the independent claims in the parent application. Therefore, the differences in scope between the independent claims of the two applications, makes a statutory double patenting rejection under 35 U.S.C. §101 improper. Accordingly, this rejection should be withdrawn.

II.   Rejection of Claims 1-41 Under 35 U.S.C. §102(b)

Claims 1-41 stand rejected under 35 U.S.C. §102 (b) as being anticipated by Lau (U.S. 6,101,500). This rejection should be withdrawn for at least the following reasons. Lau does not disclose or suggest each and every aspect set forth in the subject claims.

> A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A.*

Corp., 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California,* 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The ***identical invention must be shown in as complete detail as is contained in the … claim*.** *Richardson v. Suzuki Motor Co.,* 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Applicants' claimed subject matter relates to a system and methodology for providing monitoring and control of utilization related aspects of networked systems. In particular, independent claims 1, 21 and 36 as amended, recite similar aspects, namely ***enabling a user to manipulate assets of the networked system to facilitate improved utilization of the networked system.*** Additionally, independent claims 1, 21 and 36 relate to ***aggregated system state data.*** Lau does not disclose or suggest these aspects of the claimed subject matter.

Lau relates to a system and method for managing objects in a hierarchical data structure. The system determines a composite index for a network object from one or more parameters based on an expert decision. However, the composite index fails to indicate data related to the state of the system such as data related to performance, health, and usage parameters or system's status relating to an historical instance in time *and/or* to a current instance in time *and/or* a future instance in time. Furthermore, Lau presents analyzed data to network administrator in a manner such that the administrator can locate information without prior knowledge of the hierarchical data structure. A graphical user interface displays computed results but is silent with respect to relaying and/or accepting information from a user and/or entity in order to manipulate assets of the networked system for achieving optimal utilization of that system for its intended purpose

Applicants' claimed subject matter relates to a system that provides an optimized means to aggregate a single network's data and/or multiple networks' data, decreasing the amount of effort required by system administrators to keep a network operational and/or to provide control of its utilization and/or update a system's state. Specifically, aggregated system state data is utilized to provide manual and/or automatic control of one or more aspects of a system's utilization by an entity and/or a person. Aggregated system state data of a networked system refers to a condition of the networked system in relation to, but not limited to, performance, health, and usage parameters. A state can be a

snapshot of a system's status relating to an historical instance in time and/or to a current instance in time and/or a future instance in time. (*See* page 8, lines 18-21). A user interface interfaces with a data gathering service component and/or a database engine component. The data gathering service component is comprised of system and user control parameters, aggregation rules parameters, output/reports rule set parameters, e-mail/pager/etc. contact rules parameters, and additional parameters. The system and user control parameters provide manual and/or automatic control of various system parameters based upon information aggregated by the data gathering service component. This enables a user to manipulate assets of a client's system in order to achieve optimal utilization of that system for its intended purpose. These parameters can be set *via* the user interface. The aggregation rules parameters provide a means for the user interface to control how and/or what and/or when and the like that gathered information is aggregated. This permits a powerful amount of control over administration of a system. It allows only information that is deemed of high importance to a user (*e.g.*, value-added provider (VAP)) to be presented in an efficient manner, saving vast amounts of time *and/or* manual composition effort of the same information. The output/reports rule set parameters allow a user utilizing the user interface to set rules that govern what *and/or* how information is presented. This allows a VAP to provide clients with an informative and detailed report that is tailored for that particular client. (*See* page13, line 19 to page 14, line 13). Lau fails to teach or suggest a user interface that receives at least one user control parameter to facilitates improved utilization of the networked system

In view of the foregoing, it is clear that Lau does not anticipate each and every feature of independent claims 1, 21 and 36 (and claims 2-20, 22-35 and 37-41 that depend therefrom). Hence, it is respectfully requested that this rejection be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP503USB].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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